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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/472,972	12/28/1999	YOJI KAMEO	0445-0275P	9431

7590 02/06/2007
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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/472,972

Applicant(s)

KAMEO ET AL.

Examiner

Michele Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 21 February 2006 and 17 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) 2,6-10,13-15 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,11,12 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/21/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

This application contains claims 2, 6 – 10, 13 – 15 and 17 – 20 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144)

See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 11 – 12 and 21 are rejected under 35 U.S.C. 102(b) as anticipated by Sasajima (GB 2 276552).

With respect to claims 1 and 21, Sasajima discloses a sanitary napkin comprising an elongate absorbent body having front and rear end portion, and an intermediate central portion(10) and a pair of left and right rear wing portions (20) disposed at longitudinally opposite left and right sides of the absorbent body, wherein a rearmost portion of each said left and right wing portions is co-extensive with a rearmost portion of said rear end portion of the elongate absorbent body, with said left and right wing portions extending to said intermediate central portion, each said left and right wing

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portions extending laterally from said rear end portion of said elongate absorbent body such that a lateral extent of each said left and right wing portions is spaced a distance from said elongate absorbent body, said distance decreasing from said rear end portion toward said intermediate central portion of said elongate absorbent body, (figure 2), and wherein each of the left and right wing portions includes a liquid retentive wing portion absorbent core that comprises embossed absorption paper, and after 1 minute after dropping 1g of a physiological solution of sodium chloride from about 1 cm above the absorbent core under conditions of 20°C and humidity of 65%, the solution disperses to an area of the wing portion absorbent core measuring no larger than 80cm² as set forth in the abstract. The examiner contends that since the sanitary napkin of Sasajima is structurally identical to the claimed invention, that the article of Sasajima would produce the same results when tested according to the applicant's disclosure.

With respect to claim 5, see the rejection of claim 1. It would have been inherent that the sanitary napkin of Sasajima will provide the claimed test results because the structure of the sanitary napkin of Sasajima is identical to that of the claimed invention (i.e. providing a sanitary napkin with left and right side wing portion wherein each wing portion includes a liquid retentive wing portion absorbent core).

As to claim 11, Sasajima discloses a sanitary napkin wherein the wing portion absorbent core extends substantially an entire length of the sanitary napkin as set forth in figure 2.

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With reference to claim 12, Sasajima discloses a sanitary napkin wherein each of wing portions includes a liquid permeable topsheet and a liquid impermeable backsheet with the liquid retentive wing portion absorbent core located therebetween, said liquid retentive wing portion absorbent core extending substantially an entire width of the sanitary napkin in partial overlapping relationship with the elongate absorbent body as set forth on page 17, lines 1 – 7 and in figure 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sasajima (GB 2 276 552).

Regarding claim 4, see the rejection of claim 1. Additionally, Sasajima discloses the liquid retentive wing portion absorbent core being comprised of absorption paper as set forth in the abstract.

With respect to the pattern of the embossments, it would have been obvious to one of ordinary skill in the art to modify the embossments of Sasajima in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range is within the level of ordinary skill in the art.

Response to Arguments

Applicant's arguments filed February 21, 2006 and July 17, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., reduced liquid diffusion of rear wing portions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to the applicant's argument that Sasajima does not provide rearwardly disposed wing portions, the examiner contends that any rearmost portion of the wing portion coextensive with any portion of the rear end portion of the elongate absorbent body will meet the claimed limitations. Further, any initial distance measured laterally outside of the absorbent body as compared to a lesser distance of the same will also meet the claimed limitations with respect to a decreasing distance.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michele Kidwell
Primary Examiner
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